

Appl. No. 10/027,295
Atty. Docket No. 6823D
Response dated 11/21/05
Reply to Office Action of 10/19/2005
Customer No. 27752

RESPONSE TO REQUIREMENT FOR RESTRICTION OF INVENTIONS

A Restriction Requirement was issued for the above-identified patent application identifying claims 1-6 as pending and subject to restriction requirement. Specifically, among the pending claims 1-6, the Restriction Requirement requires Applicant to elect one of the following two Species identified in the Office Action. According to the Office Action:

Species 1 corresponds to emollient selected from the group consisting of sucrose ester fatty acids, fatty acid esters, alkyl ethoxylates, fatty acid ester ethoxylates, polysoloxanes, fatty alcohol ethers, polyethylene glycol and derivatives thereof, propylene glycol and derivatives thereof, glycerine and derivatives thereof, propoxylated fatty alcohols, fatty esters of polyhydroxy alcohols, lanolin and its derivatives, and mixtures thereof.

Species 2 corresponds to emollient as a petroleum-based emollient selected from the group consisting of petroleum, mineral oil, and mixtures thereof.

The Restriction Requirement notes the claim 1 is currently generic.

1. Election

The Examiner has required election of a single disclosed species for prosecution on the merits. Pursuant to this requirement, Applicant hereby elects to prosecute the invention designated in the Office Action as Species 1. Claims 1-3 and 5-6.

This election is made with traverse.

2. Traversal of Restriction Requirement

Applicant was surprised that a Restriction Requirement was issued at this point during prosecution (after the issuance of two Office Actions and two responses filed by Applicant demonstrating the patentability of the claimed invention over cited prior art).

The traversal of the indicated Restriction Requirement is requested as searching the claims without restriction is not unduly onerous. Specifically, the two species identified by the Office Action share the common feature of the claim 1 invention (and, in fact, depend from claim 1). Therefore the inventions described by the claims of the present application form a single general inventive concept which can be readily searched. In fact, the Examiner has already performed two searches directed toward both species as reflected in the June 2, 2004 and May 11, 2005 Office Actions.

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Moreover, claim 1 has survived both Office Actions and Responses by Applicant, and is still generic to both Species. No prior art has been cited, and indeed Applicant is unaware of any prior art, that would cause Applicant to amend claim 1 in a manner specific to either of the identified Species.

Thus, Applicant respectfully requests that the restriction requirement be withdrawn and that claim 4 be prosecuted concurrently with claims 1-3 and 5-6.

4. Conclusion

In light of the above, it is requested that the Examiner reconsider and withdraw the outstanding Restriction Requirement. Early and favorable action in this application is respectfully requested.

No fee is believed to be due for the filing of this communication. However, if any fees are deemed due as a result of this or any other communication, the Commissioner is hereby authorized to deduct such fees from Deposit Account No. 16-2480.

Respectfully submitted,
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Date: November 21, 2005
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